UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA NORTHERN DIVISION No. 2:10-CV-17-BO

DUANE MINNICK,)	
Plaintiff,)	
v.)	ORDER
CURRITUCK COUNTY, NORTH CAROLINA, et al.,)	
Defendants.)	

This matter is before the Court on the defendants' motion for appellate attorney's fees [DE 136]. For the following reasons, this motion is DENIED.

Defendants in civil rights proceedings are only entitled to an award of attorneys' fees if they are able to show that the plaintiff's claim was frivolous, unreasonable, or groundless. 42 U.S.C. § 1988. Prevailing plaintiffs are ordinarily entitled to such an award if, but a "much stricter standard applies, however, when a court is requested to make such an award to a prevailing defendant." *Id.* In determining whether the defendants are entitled to attorneys' fees it is not appropriate to engage in *post hoc* reasoning that because a plaintiff did not ultimately prevail his action was unreasonable. *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421-22 (1978).

After reviewing the Fourth Circuit's twenty-six page opinion and the parties' respective briefs the defendants have failed to carry their burden of showing that the plaintiff's actions were frivolous or unreasonable. As such, the motion for appellate attorney's fees is denied.

CONCLUSION

For the foregoing reasons the defendants' motion for appellate attorneys' fees is DENIED.

SO ORDERED.

This the **30** day of August, 2013.

TERRENCE W. BOYLE

UNITED STATES DISTRICT JUDGE